



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,729	12/24/2003	Ikuko Kobayashi	500.43372X00	9095
24956	7590	09/14/2006		
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				
			EXAMINER HENNING, MATTHEW T	
			ART UNIT 2131	PAPER NUMBER

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/743,729	KOBAYASHI ET AL.	
Examiner	Art Unit	
Matthew T. Henning	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2131

1 This action is in response to the communication filed on 7/25/2006.

2 **DETAILED ACTION**

3 ***Response to Arguments***

4 Applicant's arguments, see Page 15 Paragraph 2 and Page 17 Paragraph 2, filed
5 7/25/2006, with respect to the independent claims have been fully considered and are persuasive.
6 The previous prior art rejections of the claims have been withdrawn.

7 Claims 1-9, 11-14, and 16-17 have been examined.

8 All objections and rejections not set forth below have been withdrawn.

9 ***Specification***

10 The specification is objected to as failing to provide proper antecedent basis for the
11 claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the
12 following is required: Although there is support in the specification for no bandwidth control
13 being executed by the stream server when the client is connected through the Internet, there is no
14 support for the limitation of not executing bandwidth control anywhere for the client connected
15 through the Internet. See the rejection of the claims under 35 USC 112 1st Paragraph.

16
17 ***Claim Rejections - 35 USC § 112***

18 The following is a quotation of the first paragraph of 35 U.S.C. 112:

19 The specification shall contain a written description of the invention, and of the manner and process of making
20 and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
21 pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
22 contemplated by the inventor of carrying out his invention.
23
24

1 Claims 1-9, 11-14, and 16-17 are rejected under 35 U.S.C. 112, first paragraph, as failing
2 to comply with the written description requirement. The claim(s) contains subject matter which
3 was not described in the specification in such a way as to reasonably convey to one skilled in the
4 relevant art that the inventor(s), at the time the application was filed, had possession of the
5 claimed invention. Although there is support in the specification for no bandwidth control being
6 executed by the stream server when the client is connected through the Internet, there is no
7 support for the limitation of not executing bandwidth control anywhere for the client connected
8 through the Internet. As such, the claims are rejected for failing to meet the written description
9 requirement of 35 USC 112 1st Paragraph.

10 Claims 1-9, 11-14, and 16-17 are rejected under 35 U.S.C. 112, first paragraph, as failing
11 to comply with the enablement requirement. The claim(s) contains subject matter which was not
12 described in the specification in such a way as to enable one skilled in the art to which it pertains,
13 or with which it is most nearly connected, to make and/or use the invention. The specification
14 provides enablement for a steam server to not execute bandwidth control for a client connected
15 to the server through the Internet. However, there is no teaching or suggestion of how to ensure
16 that there is no bandwidth control executed throughout “the second network”, which includes the
17 Internet. As such, one of ordinary skill in the art would be unable to make the invention as
18 claimed including wherein bandwidth control is not executed. Therefore, the claims are rejected
19 for failing to meet the enablement requirement of 35 USC 112 1st Paragraph. The examiner
20 suggests pointing out that the lack of bandwidth control is limited to the stream server.

21

22

Art Unit: 2131

1 The following is a quotation of the second paragraph of 35 U.S.C. 112:

2 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
3 subject matter which the applicant regards as his invention.

4
5 Claims 1-9, 11-14, and 16-17 are rejected under 35 U.S.C. 112, second paragraph, as
6 being indefinite for failing to particularly point out and distinctly claim the subject matter which
7 applicant regards as the invention.

8 Claims 1, 11, 12, and 13 all lack proper punctuation, which renders the scope of the claim
9 unclear.

10 In the preamble of claim 1, it is unclear whether the second network comprises the
11 limitations to follow, or whether it is the stream server apparatus that comprises the limitations.
12 The examiner suggests changing the preambles of the independent claims to read similar to the
13 following: "A stream server apparatus connected to a first network and a second network, **the**
14 **stream server apparatus** comprising:".

15 Claim 1 recites the limitation "said client apparatus" in lines 27-29, and 32-34 of the
16 marked up claim. There is multiple antecedent basis for this limitation in the claim. As such,
17 one of ordinary skill in the art would be unable to determine which client apparatus is being
18 referred to by the limitation, and as such renders the scope of the claim unclear. Independent
19 claims 11-13 contain the same issue and are rejected for the same reason.

20 Claims 3-9 and 14, and 16-17 are rejected by virtue of their dependency to claims 1, and
21 11-13.

22 *Allowable Subject Matter*

23 The following is a statement of reasons for the indication of potentially allowable subject
24 matter: The prior art, particularly Even et al. (US Patent Application Publication 2004/0114612

Art Unit: 2131

1 A1), disclosed a network of the same structure as claimed, including the first and second
2 networks, the first and second clients, the first and second and third paths, and the stream server,
3 and the multiple interfaces, as seen in Even Fig. 2. Even further disclosed choosing the paths
4 based on the client locations and the type of communication as seen in Even Paragraphs 0028-
5 0030 and 0040-0041. However, Even did not disclose the use of bandwidth management.

6 Bandwidth management is well known in the art, and in general would have been
7 obvious. However, the particular combination of limitations as claimed, including bandwidth
8 control for a client on one network and not for a client on another network by the use of dummy
9 port numbers, has not been taught or suggested by the prior art.

10 *Conclusion*

11 Claims 1-9, 11-14, and 16-17 have been rejected.

12 Applicant's amendment necessitated the new ground(s) of rejection presented in this
13 Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).
14 Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15 A shortened statutory period for reply to this final action is set to expire THREE
16 MONTHS from the mailing date of this action. In the event a first reply is filed within TWO
17 MONTHS of the mailing date of this final action and the advisory action is not mailed until after
18 the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
19 will expire on the date the advisory action is mailed, and any extension fee pursuant to 37
20 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,
21 however, will the statutory period for reply expire later than SIX MONTHS from the date of this
22 final action.

Art Unit: 2131


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew T. Henning whose telephone number is (571) 272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew Henning
Assistant Examiner
Art Unit 2131
9/7/2006



AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100